BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

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| IN THE MATTER OF THE APPLICATION<br>OF THE COMMISSION, ON ITS OWN<br>MOTION, TO CONDUCT AN INVESTIGATION<br>INTO SPECIFIC AREAS OF CONCERN<br>IN THE PROVISIONING OF PAYPHONES<br>IN THE STATE OF NEBRASKA | )<br>)<br>)<br>)<br>)<br>) | Application No. C-2112/PI-30 |

# U S WEST'S REPLY COMMENTS

U S WEST Communications, Inc. (U S WEST), through counsel, submits the following Reply Comments pursuant to the Commission's Order dated January 4, 2000.

## MINIMUM TECHNICAL REQUIREMENTS OF PAYPHONES

All of the local exchange carriers that filed comments (U S WEST, ALLTEL, and NTA) agree that industry, state and FCC standards and rules sufficiently safeguard technical requirements for payphone lines. As indicated in its initial comments, U S WEST is committed to following industry standards for signaling and accepts and resolves trouble reports on a case-by-case basis as they arise.

In its comments, Pay Phone Concepts (PPC) expresses concern about the signaling provided on payphone lines. PPC mentions two network signals that it says are necessary for its payphones to work properly.[1] U S WEST provides both these signals but they are referred to by different names than those used by PPC. PPC comments refer to a "Flash or Wink" prior to any dial tone (PPC Issue A-1). PPC says this prevents "secondary dial tone" which can result in free calls being placed by end users (Issue B-1). While U S WEST is not familiar with the "Flash or Wink" to which PPC refers, U S WEST has deployed a feature in the U S WEST network, called Modified Calling Line Disconnect (MCLD), which prevents the free calling problem. As a result

[1] Post-Hearing Comments of Pay Phone Concepts, Attachment G: Technical Issues. Specific issues listed by Pay Phone Concepts are referred to by issue number, e.g. A-1.

U S WEST is unaware of any Payphone Service Provider complaints of secondary dial tone in Nebraska or elsewhere in U S WEST's service area.

PPC refers to the "Three Tone Herald" or "Situational Information Tone." U S WEST calls this a "Special Information Tone" (SIT). U S WEST uses a SIT on all intercept recordings, including those PPC lists (PPC Issue A-2).

PPC also raised an issue regarding calls placed to cell phones that are out of the area or not turned on (Issue C-1). U S WEST does not offer wireless services in Nebraska at this time.

PPC states that its customers end up paying for calls that are forwarded to a busy number, "due to the call FWD ringback signal." (PPC Issue C-2) It is indeed possible in a call-forwarding situation for the network to send a ringing signal to the called number for some limited time period before the call is forwarded. Then, if the number to which the call is forwarded is busy, then the network appropriately sends a busy signal back to the caller. This is the way the network is supposed to work. It is not possible for the network to "know" that the forwarded to number is busy before the forwarding has taken place. To avoid the specific problem that PPC describes, "smart" payphones must be programmed to react appropriately to sounds and signals received over the network. If a payphone provider's payphones are not interpreting the network signals appropriately, solutions to the problem are available.[2]

[2] U S WEST assumes the problem is unique to "smart" payphones. "Dumb" payphones rely on intelligence in the central office for coin control, and U S WEST's central office-based coin control functions respond appropriately to a busy signal by returning, not collecting, the coins.

Smart payphones are often programmed to respond to the audible sounds returned over the network to the calling party. Normally, these payphones are programmed to detect a "voice" sound before collecting the coins. Similarly, these payphones would normally be programmed to return the coins if it detected a busy signal. It would not be logical for the payphone to be programmed to collect coins when it "hears" a ringing signal.

Alternatively, a smart payphone can be programmed to detect and respond to specific network-generated electronic signals, which are available to any customer under U S WEST's Open Network Architecture (ONA) tariffs and catalogs. Specifically, a smart payphone can be programmed to wait for an Answer Supervision signal before collecting the coins. The Answer Supervision signal is generated by the network and sent to the subscribing customer when the called phone goes "off-hook," i.e., is actually answered.

Finally, PPC states that these technical issues exist "due to the TSPs not understanding the scope of the problem nor are they cooperating in any manner to assist in resolving it." (PPC Issue D-1) However, PPC did not provide any specific evidence of LECs refusing to cooperate on resolving trouble. Neither did PPC explain how increased regulation would improve the situation. As explained above, U S WEST has instituted features in its network to take care of the problems described by PPC. Therefore, if PPC is experiencing one of these problems on a specific access line, it needs to report the situation for repair. PPC suggests that more regulation will result in routine repair problems with network signals being resolved before they occur. This is not the case. Infrequent and isolated problems will still occur with network signaling regardless of regulation. As a result U S WEST respectfully disagrees with PPC's position that these problems cannot be resolved under existing regulations or that more regulation is the answer. In closing, U S WEST suggests that this Commission take no action in the area of technical standards for calls from payphones.

**PRICING OF PAYPHONE SERVICES**

Comments of the parties on pricing issues fell into three categories: (1) the pricing of payphones services provided by local exchange carriers (LECs) to payphone providers; (2) the current Nebraska rule that requires each LEC to provide a payphone within each municipality that the LEC serves; and, (3) the assessment of the Nebraska Universal Service Fund (NUSF) surcharge on payphone services. U S WEST will address each of these pricing issues separately in these reply comments.

**Pricing of Payphone Services Provided by LECs to Payphone Providers**

PPC, in its comments, raises a number of concerns regarding the prices that U S WEST and other Nebraska LECs charge for the local exchange services that PPC buys to provision its payphones. PPC asks the Commission to apply the FCC's new services test to the prices of payphone services offered by Nebraska LECs. (PPC Comments at page 1) PPC raised the same issue in its complaint in Application No. C-1519, and U S WEST responded in its Comments filed June 18, 1999. U S WEST asks the Commission to incorporate those comments in the present docket.

As explained in its comments in this docket, U S WEST agrees that the FCC requirements for the pricing of payphone services include the requirement that the prices meet the new services test. As also explained in its comments, U S WEST examined its prices for its public access line services and found that those prices met the new services test. U S WEST performed this examination of its payphone services prices in 1997 at the time of payphone deregulation, and certified that it met this as well as the other payphone deregulation requirements. Yet PPC, by its comments, seems to be alleging that U S WEST and other LECs are pricing in such a way that violates the FCC's pricing requirements. In order to assist the Commission in its consideration of this issue, U S WEST offers the following review of the FCC's new services test and payphone pricing requirements.

The "new services" price test, as set forth in 47 C.F.R. Section 61.49(g)(2), is a benchmark that must be met when the Company files a federal tariff for a new service. There are essentially two parts to the test. First, each service must be priced above cost, and second, each service must include no more than a reasonable level of contribution. Based on statements made in its orders, the FCC developed the new services price test to provide a flexible pricing guideline that guards against predatory, excessive and discriminatory pricing. The FCC's rules accomplish this by requiring a cost basis for both lower and upper price bounds, thus guarding against pricing that is either too low or too high. In developing its pricing rules for new services, the FCC recognized the need for contribution levels in the prices that would give LECs incentive to innovate and develop still more new services.

The origins of the new services test go back to 1989 when it was first used in AT&T's price cap regulation process. Some of this history is summarized in the FCC's 1992 ONA Order.[3] The new services price test was first designed as a lower bound test to avoid setting of predatory prices by AT&T under price cap regulation. At that point the test consisted of a net revenue test which required that prices cover direct cost plus any net revenue losses that might be created by customers moving from old services to the new service being introduced. Then, with the introduction of price cap rules for local exchange carriers (LECs), in the LEC Price Cap Order of 1990, the FCC adopted the same kind of new services test for LECs that would be under price cap regulation, but added an upper bound test. A lower bound test, as was established by the FCC in the AT&T price cap regulation, ensures that prices are not set below direct costs. This was intended to prevent predatory pricing. An upper bound test, as was established by the FCC in the price cap regulation for LECs, ensures that prices are set to cover direct costs plus a just and reasonable portion of overhead costs. This was intended to prevent excessive pricing and discrimination.

In its ONA Order,[4] the FCC modified the new services test to introduce flexibility in the overhead loadings or the upper bounds that would be allowed for the pricing of a new service. At this point, the new services test became a part of the Computer III guidelines. The FCC stated in Paragraph 21 of this order, "We also modify the price cap new services test to provide LECs with sufficient flexibility to price efficiently, while protecting against excessive prices and

[3] CC Docket Nos. 89-79 and 87-313. Memorandum Opinion & Order on Second Further Reconsideration, FCC 92-325, Adopted July 16, 1992. Paragraph 2

[4] CC Docket Nos. 89-79 and 87-313. Report and Order and Order on Further Reconsideration & Supplemental Notice of Proposed Rulemaking. Adopted June 13, 1991

unreasonable discrimination." The FCC also said: "Because we believe that the public interest will be served by providing LECs with an adequate incentive to innovate, we conclude that a flexible cost-based approach is the best way of controlling both excessive pricing and discrimination."

The FCC did not define a specific cost or level of contribution that must be used to set the price under the new services price test. The FCC stated that it was not mandating uniform loadings in order to promote pricing flexibility, which it saw as being needed to achieve efficient pricing and promote innovation.[5] The FCC made it clear that it was rejecting the concept of uniform loadings –- a consistent percentage markup over direct costs -- and that it would expect the LECs' filings to have various loadings on various products and services.

The FCC used the term "cost-based" in two ways in its discussions of the new services test. First, "cost-based" means that direct costs establish a price floor. Second, "cost-based" means the LEC justifies the overhead loadings as a multiple of the direct cost. The FCC put costs into two categories, direct costs and overhead loadings. Direct costs are costs that can be directly assigned to a specific product, and overhead loadings refer to common costs, costs that would be common to all of the products and services offered by the Company. The FCC requires that direct costs be submitted as a price floor, and also that a price/cost ratio be submitted to justify the overhead loadings in the price itself. However, the FCC specifically refrained from adopting a specific cost model that all LECs would have to use in calculating their direct costs.[6]

When U S WEST makes new service filings with the FCC, the Company files work papers to support Total Long Run Incremental (TSLRIC) and Shared Costs. TSLRIC plus

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[5] CC Docket Nos. 89-79 and 87-313. Report and Order and Order on Further Reconsideration & Supplemental Notice of Proposed Rulemaking. Adopted June 13, 1991. Paragraph 44.

[6] CC Docket Nos. 89-79 and 87-313. Report and Order and Order on Further Reconsideration & Supplemental Notice of Proposed Rulemaking. Adopted June 13, 1991. Paragraph 42.

Shared Costs together form direct costs per the FCC's definition. Included in the workpapers is a price/cost ratio which is derived by taking the price that U S WEST is proposing and dividing it by the direct costs. After payphone deregulation was achieved, and questions were raised about the pricing of payphone services, U S WEST conducted a review of its new service filings with the FCC over a twelve month period. This review provides a range of price/cost ratios the FCC has found to be acceptable. The reviewed filings included a variety of services, such as Megabit Services, SONET enhancements, and new rate elements for 1-800 calling. The price/cost ratios ranged considerably, from a low of 1.02 to a high of 49.41. More specific to the payphone deregulation, U S WEST filed unbundled payphone features with the FCC, as required by FCC payphone orders. The prices of these payphone features have price/cost ratios ranging from close to 1, all the way up to a ratio of approximately 75. These prices were all acceptable, and they all became effective.

While the FCC has not issued any order in which it specifies the range of price/cost ratios that would be acceptable, it has commented on such a range in the context of reviewing specific prices. In its review and approval of another Bell Operating Company's pricing, the FCC stated, "Bell Atlantic's ratio of rates to direct costs for pay phone features range from a low of zero times greater than the direct cost to a high of 3.4 times greater than the direct costs, while the ratio of rates to direct costs for the payphone features offered by other LECs ranges from a low of zero times greater than the direct costs to a high of 4.8 times greater than the direct costs."[7]

In the 1996 Federal Telecommunications Act, Section 276 required the deregulation of payphones. Congress directed the FCC to issue rules and procedures implementing deregulation of payphones. The FCC has issued a series of orders, the first one in September, 1996, regarding

[7] CC Docket 97-140, Memorandum Opinion and Order, released October 29, 1997, at paragraph 13

deregulation of payphones.[8] In its payphone deregulation orders, the FCC required that local exchange companies (LECs) make available to independent payphone providers on a tariffed basis the services they provide to their own payphone operations. Further, the FCC required that the prices of these payphone services should meet the FCC's new services price test. One of the provisions of the Act that the FCC was charged with implementing was that "any Bell operating company that provides payphone service … shall not prefer or discriminate in favor of its

[9] Because the new services test was devised to prevent discriminatory pricing, the FCC therefore specified the new services test as the pricing guideline that all incumbent LECs should use in setting the prices of payphone-specific services they sell to competing payphone providers. The FCC reiterated its reliance on the new services price test repeatedly in its payphone orders, referenced above. The FCC clarified that it intended this pricing standard to apply to all payphone-specific services, regardless of whether they were filed in state or interstate tariffs.[10] Further, the FCC clarified that this pricing requirement applied not only to new payphone services filed as a result of its deregulation orders (e.g. Smart PAL), but also to previously existing payphone services (e.g. Basic PAL). The FCC stated repeatedly that payphone service prices must be: (1) cost based; (2) consistent with the requirements of Section 276; (3) nondiscriminatory; and (4) consistent with the new services test. The FCC did not require the LECs to make a filing with the FCC to determine if the payphone services in their state tariffs met its pricing requirements. The FCC stated, "We will rely on the states to ensure

[8] The following FCC Orders in Docket No. 96-128 (Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996) contain relevant material:

Report and Order (FCC 96-388, released September 20, 1996) at paragraph 146.
Order on Reconsideration (FCC 96-439, released November 19, 1996) at paragraph 163, footnote 492.
Bureau Waiver Order (DA97-678, released April 4, 1997) at paragraph 31.
Bureau Waiver Order (DA97-805, released April 15, 1997) at paragraph 2 and 25.

[9] Telecommunications Act of 1996, Section 276 Provision of Payphone Service, (a) Nondiscrimination Safeguards.

[10] Bureau Waiver Order (DA97-678, released April 4, 1997) at paragraph 31.

that the basic payphone line is tariffed by the LECs in accordance with the requirements of Section 276."[11] The FCC concluded:

> that we do not have a record to determine here whether the BOCs have complied with the state tariffing requirement for cost-based rates. As required by the Order on Reconsideration, however, LECs, including the BOCs, must be prepared to certify that they have complied with all the requirements of the Payphone Reclassification Proceeding, including those involving intrastate tariffs….[12]

U S WEST filed its Smart PAL tariffs or catalogs in the states, including Nebraska. U S WEST analyzed its prices for all of its PAL services, both Smart PAL and Basic PAL, in accordance with the new services test. The Company's review showed all of the Nebraska PAL prices to be in compliance with the test. On May 20, 1997, U S WEST issued its certification letter, certifying its compliance with all FCC payphone deregulation requirements in a number of states, including Nebraska. A copy of that certification letter is attached as Exhibit 1. The FCC recently issued an order in which it found that U S WEST's certification letter met its requirements that a LEC must be able to attest to and certify compliance with payphone deregulation requirements. Furthermore, the FCC noted the thoroughness of U S WEST's certification.[13]

U S WEST offers the following responses to the specific questions and allegations raised in PPC's comments.

*S WEST $15-$18 higher in Nebraska than in Iowa for the very same service?*

*There is no reason. There has been no rate case brought up thus they have just been getting by with it."*

[11] Order on Reconsideration (FCC 96-439, released November 19, 1996) at paragraph 163.

[12] Bureau Waiver Order (DA97-678, released April 4, 1997) at paragraph 29.

[13] Federal Communications Commission. In the Matter of Ameritech Illinois, U S WEST Communications, Inc., *et al*, Complainants, v. MCI Telecommunications Corporation, Defendant, File Nos. E-98-51, E-98-53, and Ameritech Illinois, Pacific Bell, *et al.* Complainants, v. Frontier Communications Services, Inc. *et al.* Defendants,

A comparison between the price of a service in two different states is no indication of whether one, or both, of those prices meets the FCC's pricing requirements. U S WEST's PAL prices meet the FCC's new services test in both Iowa and Nebraska.

As stated in U S WEST's previous comments, there are many pricing factors which vary from one state to another, including the type of regulation that the Company is under, the policy and pricing decisions made over the years by both U S WEST and the state Commission, economic factors, competitive factors, etc. The net result of all of these state-to-state variations is that prices do vary from state to state for the very same service. This is just as true for PAL services as it is for residential basic exchange service, enhanced features, indeed for the majority of the services that U S WEST offers to its customers. PAL services are priced in relationship to the price of business basic exchange service. Often, PAL has a higher price than business basic service because of the higher usage generated by a payphone. In no case is the tariff/catalog price of PAL lower than the tariff/catalog price of a business line. U S WEST's rate for a business line is lower in Iowa than it is in Nebraska. Therefore, it is not surprising that its PAL rates are also lower in Iowa than in Nebraska.

PPC's own response to this question suggests that if U S WEST were subject to rate cases in Nebraska, this price difference between Iowa and Nebraska would not exist.[14] However, U S WEST has not had a rate case in either Iowa or Nebraska for many years. Whether or not U S WEST is under rate of return regulation, or some other type of regulation, is not the determining factor of what its price is for PAL services in a given state.

Also, rate of return regulation does not parallel the Nebraska regulatory structure and does not include the benefits that have resulted from Nebraska's elimination of rate of return in

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File Nos. E-98-50, E-98-54, E-98-55, E-98-56, E-98-57, E-98-58, E-98-59 & E-98-60. Memorandum Opinion and Order, DA 99-2449, Adopted November 4, 1999. At ¶¶ 19-20.

1986. Rate of return regulation comprises an enormous task of subsidizing some services through the pricing of other services. The fact that one service, such as payphone, may be lower in one state does not account for that state's mixing of subsidies across services and the increased prices for other services. Further, Nebraska's elimination of rate of return has created several benefits for Nebraska consumers, including greater investment incentives. U S WEST suggests that the elimination of rate of return and resulting investment initiatives allow Nebraska to have excellent service quality and provisioning for Nebraska consumers. As an example, U S WEST had only ten held orders as of the end of 1999. Therefore, borrowing the rate of return regulations for payphones from other states does not present a complete picture of all of the consumer and carrier advantages resulting from Nebraska's elimination of rate of return.

Further, there are many reasons for the price of a PAL line. Price changes also may occur for reasons that are not directly related to payphone deregulation and FCC pricing requirements. The price increase filed by Arlington Telephone Company, which caught PPC's attention, is another example of the types of factors which can influence the price of a payphone access line. It is U S WEST's understanding that the price increase was made in compliance with the Commission order implementing the NUSF, as a part of Arlington's transition plan. There are many factors which influence the price of a payphone access line, and the FCC's new services test allows for the needed flexibility and variability in these prices.

*"Why did U S WEST lower their rate in Arizona from $42.31 to $33.03 to PSPs? Because the State of Arizona did the job required of them in the 96 Telecom Act."*

As evidence of the proceeding in Arizona, PPC offers an article from the trade magazine Perspectives, which is published by the APCC, a trade organization of independent payphone providers. While U S WEST would argue that the Arizona proceeding is not relevant to

[14] "Pay Phone Concepts comments at page 1.

Nebraska, if the Commission does choose to consider the Arizona proceeding, then U S WEST suggests that a review of the official documents of that proceeding would be appropriate. A copy of the Arizona Commission's order in that proceeding is attached as Exhibit 2. U S WEST has appealed the Arizona order.

U S WEST would point out several unique aspects to the Arizona proceeding which it would offer as argument that Arizona should not be taken as a useful precedent. First, the Arizona Commission did not find U S WEST's Arizona PAL prices to be out of compliance with FCC pricing requirements. Indeed, the Staff's own expert witness testified that U S WEST's then-current PAL rates met the new services test.[15] The Commission instead approved a stipulation between the Commission Staff and the Arizona Payphone Association. That stipulation states, "acceptance of this Agreement by the parties is without prejudice to any position taken by any party in these proceedings."[16] Second, U S WEST was not a party to the stipulation that called for the reduction to U S WEST's Arizona PAL prices. Third, the Arizona action reduced only the price of Basic PAL service and created price discrimination between Smart PAL and Basic PAL. Since payphone deregulation, U S WEST's PAL prices have also been challenged by local payphone associations in Colorado and Montana as being out of compliance with FCC requirements. Neither the Colorado nor the Montana Commission found U S WEST's PAL prices to be in violation of FCC requirements.

*"Did filing a Comparable Efficient Interconnection (CEI) plan with the FCC by April 15, 1997 take care of the Bell operating companies rate tariff filing requirements? It did not*

[15] "Mr. Berg [U S WEST's attorney]: Isn't it true in that study Staff concludes that U S WEST BPAL rates meet the new services test? Dr. Le [Staff witness]: Yes. And I think I agree with that…." Arizona Corporation Commission Docket No. T-01051B-97-0024. Reporter's Transcript of Proceedings, December 21, 1998, at 92-93.

[16] Arizona Corporation Commission, Docket Nos. T-01015A-97-0024 –0041 –0042 & -0043, Decision No. 61304, December 31, 1998, Exhibit A, Settlement Agreement, Agreement ¶ G, page 4.

*take care of it within each state. (Attachment F) are letters to the FCC from the petitioning RBOC Coalition to allow certain provisions."*

PPC is mixing two separate requirements with this question and answer. U S WEST agrees that each requirement must be addressed and fulfilled separately, and U S WEST has done so. To clarify, U S WEST offers the following quote from one of the FCC's payphone orders:

> [A] LEC must be able to certify the following: 1) it has an effective cost accounting manual ("CAM") filing; 2) it has an effective interstate CCL tariff reflecting a reduction for deregulated payphone costs and reflecting additional multiline subscriber line charge ("SLC") revenue; 3) it has effective intrastate tariffs reflecting the removal of charges that recover the costs of payphones and any intrastate subsidies; 4) it has deregulated and reclassified or transferred the value of payphone customer premises equipment ("CPE") and related costs as required in the Report and Order; 5) it has in effect intrastate tariffs for basic payphone services (for "dumb" and "smart" payphones); and 6) it has in effect intrastate and interstate tariffs for unbundled functionalities associated with those lines.[17]
>
> In addition to the requirements for all other LECs, BOCs [Bell operating companies] must also have approved CEI plans for basic payphones services and unbundled functionalities….[18]

Thus, the FCC made six requirements of all LECs to accomplish the deregulation of their payphone services, and added a seventh requirement (CEI plan) of the LECs that are also BOCs. The rate tariff filing requirements are requirements number five and six, and they are separate from the requirement for a CEI plan. The letters from the RBOC payphone coalition that PPC offers as its Attachment F concern the tariffing requirements, not the CEI plan requirement.

*"Aliant/Alltel Communications poses another problem on their bill. Why can they still charge for Selective Class of Call Screening (SCOCS). The 96 telecom Bill required LECs unbundle payphone services. Aliant/Alltels payphones are provided this feature automatically and at N/C. We are being charged $5.00 per month to have this feature."*

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[17] Order on Reconsideration (FCC 96-439, released November 19, 1996) at paragraph 131, as amended in erratum released November 19, 1996..

Although PPC did not refer specifically to U S WEST in raising this issue, U S WEST offers this reply in the belief that the issue would potentially apply to any LEC. Selective Class of Call Screening is an optional feature that a customer can subscribe to in order to control unwanted billing or fraud on outgoing calls. It is sometimes referred to as "fraud protection." U S WEST sells this feature under the brand name "Customnet" in Nebraska at a monthly rate of $3.00. It is not a payphone-specific feature. It is available to any subscriber to basic exchange telephone service, and the majority of subscribers are not payphone providers. Many payphone providers subscribe to this feature on their Basic PAL lines to prevent customers from billing long distance calls back to the payphone line through an operator. PPC's statement about this feature being provided automatically and at no charge to the LEC payphones is incorrect with regard to U S WEST payphones. Any subscriber to Basic PAL (used with "smart" payphones), whether it is U S WEST's payphone service or an independent payphone provider, pays the $3.00 monthly charge if U S WEST's Customnet service is ordered for that line. The situation is different for Smart PAL lines (used with "dumb" payphones). As explained earlier, Smart Pal service provides intelligence contained in the central office switch. That central office intelligence includes fraud protection similar to that provided by Customnet. However, in the case of Smart PAL, the fraud protection is an integral part of the service and is not optional. Smart PAL is sold at a higher price than Basic PAL is. Therefore, the payphone subscriber who uses Smart PAL is paying for the fraud protection that is provided.

*U S WEST and Aliant/Alltel also charges PSPs an Extended Area Service (EAS) charge in areas it is available. Why is this allowed and do they charge it to their phones?*

PPC suggests that EAS should be optional rather than mandatory. U S WEST does not agree that EAS should be optional for some customers and mandatory for others. The

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[18] Order on Reconsideration (FCC 96-439, released November 19, 1996) at paragraph 132.

Commission has established an EAS process for expanding local calling areas and authorizing the charges associated with those expanded calling areas. This is a system of mandatory EAS under which all telephone subscribers in a given exchange have the benefits of the same local calling area. PPS's approach would deprive its customers of the expanded local calling area that is available from any phone in that area. It is neither practical nor fair for payphone providers to have a different local calling area than all other subscribers.

**Nebraska Rule Requiring Each LEC To Provide a Payphone Within Each Municipality**

ALLTEL and the NTA both raised the issue of Nebraska Rule, Section 002.06, requiring that a local exchange carrier supply each municipality with at least one public payphone station. U S WEST has previously presented its position on this issue to the Commission and will briefly reiterate that position here.

In a municipality where a payphone does not generate enough use to be profitable, U S WEST offers to install a semi-public phone. The property owner pays a monthly charge for a semi-public phone, and many local government authorities are willing to pay this monthly charge in order to help defray the costs of having a phone available to the public. This approach to the provisioning of Public Interest Payphones has been successful in a number of states. However, if the Commission concludes that the rule must stand as written, and the property owner or local government should not help pay for the phone, then U S WEST agrees with ALLTEL and the NTA that the financial support for such phones should be a part of the NUSF.

**Assessment of the Nebraska Universal Service Fund (NUSF) Surcharge on Payphone Services**

Both ALLTEL and the NTA commented on the present requirement that the NUSF surcharge be collected on all retail telecommunications services. Specifically, both commenters expressed concern that payphone providers were not appropriately paying the surcharge into the NUSF on their retail revenues, and commenters suggested that the surcharge on payphone services should therefore be collected at the wholesale level instead. U S WEST takes a different view. Consistent with its position in the Universal Service proceedings of this Commission, U S WEST restates that Universal Service surcharges are appropriately collected on retail revenues and should not be collected on wholesale revenues. Any payphone provider, regardless of whether it is a LEC or an independent payphone provider, records its revenues on its books. To report those revenues to the NUSF administrator and to pay a surcharge based on those revenues does not create an undue burden. The Commission should enforce its present regulations and collect the NUSF surcharge based on retail revenues of payphone services just as it does for all other telecommunications services.

Dated this 24th day of February, 2000.

Respectfully submitted,

U S WEST Communications, Inc

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## CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Reply Comments of U S WEST Communications, Inc., to be served this 24th day of February, 2000, upon each of the following via United States mail, postage prepaid, addressed as follows:

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Frank H. Hatzenbuehler.
Vice President

May 20, 1997

*Name*
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*City, State, Zip*

Dear *Mr./Ms.. Name*: (Carriers with Interim Compensation Obligations - see attached list)

In response to the FCC's implementation requirements for Section 276 of the Telecommunications Act of 1976 regarding the new rules and policies governing the payphone industry, U S WEST Communications ("U S WEST") hereby certifies that it has met all the requirements of the FCC to receive payphone compensation from carriers in all of its states except one.[43] The seven requirements for eligibility were initially set forth by the Commission in paragraphs 131 and 132 of the Reconsideration Order in the Payphone Reclassification Proceeding, and have been clarified and modified by subsequent Orders. Specifically[44] U S WEST certifies that:

1. It has an effective cost accounting manual (CAM) filing. (Attachment A)
2. It has an effective CCL tariff reflecting a reduction for deregulated payphone costs and reflecting additional multiline subscriber line charge (SLC) revenue. (Attachment A)
3. It has effective intrastate tariffs reflecting the removal of charges that recover the costs of payphones and any intrastate subsidies. (Attachment B)
4. It has deregulated and reclassified or transferred the value of payphone customer premises equipment ("CPE") and related costs as required in the Report and Order. (Attachment A)
5. It has in effect intrastate tariffs for basic payphone services (for "dumb" and "smart" payphones), (except for New Mexico where the tariff for dumb payphones (Smart PAL) is still pending approval). (Attachment C)

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[43] The eligible states are Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Approval of the tariff for "dumb" payphone service (Smart PAL) is still pending in New Mexico.
[44] Attachments A through D contain specific information associated with U S WEST's compliance with the FCC's requirements for compensation.

6. It has in effect intrastate and interstate tariffs for unbundled functionalities associated with those lines. (Attachments A & D)
7. It has an approved comparably efficient interconnection (CEI) plan for basic payphone services and unbundled functionalities. (Attachment A)

In addition, U S WEST certifies that it has effective intrastate payphone services tariffs which are cost-based, consistent with the requirements of Section 276, nondiscriminatory and consistent with Computer III guidelines. Pursuant to the Commission's limited waiver of the "new services" test granted in its Order of April 15, 1997 (DA 97-805), U S WEST has filed any rate changes required in the existing intrastate tariffs for unbundled functionalities to achieve compliance with the "new services" test.

Accordingly, U S WEST is in full compliance with the applicable requirements as set forth in the Payphone Orders. It is, therefore, eligible to receive flat rate interim compensation and per call compensation from carriers as of April 15, 1997, in 13 of its 14 States and on the first day following certification eligibility in New Mexico.

In order to effectuate the FCC's interim compensation provisions, U S WEST will bill carriers per payphone, per month, the amounts specified in Appendix F of the Payphone Order.

Sincerely,

Frank H. Hatzenbuehler

Frank H. Hatzenbuehler
Vice President Markets Pricing & Regulatory Support
U S WEST Communications

Attachments

cc: Tom Bystrzycki, U S WEST
David Anastasi, U S WEST
Regina Kenney, FCC
Mary Beth Richards, FCC
John B. Muleta, FCC
Michael Carowitz, FCC
Arizona Corporation Commission
Colorado Public Utilities Commission
Idaho Public Utilities Commission
Iowa Utilities Board
Washington Utilities and Transportation Commission
Minnesota Public Utilities Commission
Montana Public Service Commission
Nebraska Public Service Commission
New Mexico Public Utility Commission
North Dakota Public Service Commission
Oregon Public Utility Commission
South Dakota Public Utilities Commission
Utah Public Service Commission
Wyoming Public Service Commission

**INTERIM COMPENSATION OBLIGATIONS**
**U S WEST Certification Letter Distribution**

AT&T Communications, Inc.
ALASCOM, Inc.
MCI Telecommunications Corp.
Sprint Communications Co.
LDDS WORLDCOM
Frontier Communications Services
Frontier Communications International, Inc.
Frontier Communications of the North Central Region
Frontier Communications of the West, Inc.
Cable & Wireless Communications, Inc.
LCI International Telecom Corp.
Excel Telecommunications, Inc.
Telco Communications Group, Inc.
Midcom Communications, Inc.
Tel-Save, Inc.
U.S. Long Distance, Inc.
VarTec Telecom, Inc.
GE Capital Communications Services Corp.
General Communication, Inc.
MFS Intelenet, Inc.
Business Telecom, Inc.
Communication Telesystem International
Oncor Communications, Inc.
The Furst Group, Inc.
American Network Exchange, Inc.

ATTACHMENT A

## U S WEST Communications

| FEDERAL FILING REQUIREMENTS | | | |
|---|---|---|---|
| *FCC Requirement* | *Filed* | *Approved/ Implemented* | *Tariff Transmittal* |
| 1.) Cost Allocation Manual (CAM) | 9/1/96 | 9/1/96 | Adjustment made with RM8181 filing |
| 2.) Interstate CCL Tariff | 1/15/97 | Public Notice released 4/15/97 | Transmittal No. 823, Tariff FCC No. 5 |
| 4.) Deregulation/Reclassification of Payphone CPE | N/A | 4/15/97 | N/A |
| 6.) Interstate Tariffs for Unbundled Features | 1/15/97 Revised 4/14/97 | Public Notice released 4/15/97 | Transmittal Nos. 301, 823 and 826. Tariff FCC No. 5 |
| 7.) CEI Plans | 1/6/97 | Order released 4/15/97 | (DA 97-796) |

# U S WEST Communications

## State Filing Requirements

### 3.) Intrastate Subsidy Removal

| *State* | *Explicit Payphone Cost Recovery Elements* | *Elimination of Subsidy/ Adjustment to Rates (Effective Date)* | *Other Activities* |
|---|---|---|---|
| Arizona | None | N/A No Subsidy | Not Applicable |
| Colorado | None | N/A No Subsidy | Not Applicable |
| Idaho - North | None | N/A No Subsidy | Not Applicable |
| Idaho - South | None | N/A No Subsidy | Not Applicable |
| Iowa | None | N/A No Subsidy | Not Applicable |
| Malheur | Intrastate application of Part 69 | N/A No Subsidy | No adjustment to rates; revenue requirement adjusted in pending access charge filing |
| Minnesota | None | N/A No Subsidy | Not Applicable |
| Montana | None | N/A No Subsidy | Not Applicable |
| Nebraska | None | N/A No Subsidy | Not Applicable |
| New Mexico | None | N/A No Subsidy | Not Applicable |
| North Dakota | None | N/A No Subsidy | Not Applicable |
| Oregon | Intrastate application of Part 69 used in past | N/A No Subsidy | No adjustment to rates; revenue requirement adjusted 4/15/97* |
| South Dakota | SD rules allocate pay phone costs to CCL | N/A No Subsidy | No adjustment to rates; revenue requirement adjusted 4/11/97* |
| Utah | None | N/A No Subsidy | Not Applicable |
| Washington | Intrastate application of Part 69 used in past | N/A No Subsidy | No adjustment to rates; revenue requirement adjusted 4/15/97* |
| Wyoming | None | N/A No Subsidy | Not Applicable |

* A specific analysis of payphone revenue to costs shows there is no payphone subsidy. No adjustment to current rates required because current intrastate CCL charge is below the current adjusted revenue requirement.

# U S WEST Communications
## State Filing Requirements

5.) Payphone Services Intrastate Tariff Filings

| *Jurisdiction* | *Tariffs for "Dumb" Payphone Smart Lines Filed On* | *Date Approved Date Effective* | *Tariff/Order No.* |
|---|---|---|---|
| Arizona | 1/15/97 | Approved 4/17/97<br>Effective 4/15/97 | Decision No. 60135 |
| Colorado | 1/15/97 | Approved 2/12/97<br>Effective 4/15/97 | Advice No. 2649 |
| Idaho - North | 1/15/97 | Approved 4/23/97<br>Effective 4/15/97 | Advice No. 97-02-N |
| Idaho - South | 1/15/97 | Approved 4/23/97<br>Effective 4/15/97 | Advice No. 97-01-S |
| Iowa | 1/15/97 | Approved 2/6/97<br>Effective 4/15/97 | Advice No. 1444 |
| Malhuer | 1/15/97 | Effective 4/15/97 | Advice No. 97-04-C |
| Minnesota | 1/15/97 | Effective 4/15/97 | Docket P421/EM-97-93 |
| Montana | 1/13/97 | Effective 4/15/97 | Advice No. 97-02-N |
| Nebraska | 1/15/97 | Effective 4/15/97 | NE 96-080 |
| New Mexico | 1/15/97 | Pending | Pending |
| North Dakota | 1/15/97 | Effective 4/15/97 | ND 96-036 |
| Oregon | 1/15/97 | Approved 4/1/97<br>Effective 4/15/97 | Advice No. 1668 |
| South Dakota | 1/15/97 | Effective 4/15/97 | Docket TC 97-006 |
| Utah | 1/15/97 | Approved 4/22/97<br>Effective 4/15/97 | A.L. 97-03 |
| Washington | 1/15/97 | Approved 3/12/97<br>Effective 4/15/97 | Advice No. 2825T |
| Wyoming | 1/13/97 | Effective 4/15/97 | WY 96-064 |

# U S WEST Communications
# Filing Requirements

6.) Unbundled Features and Functions

| *Feature/ Function* | *Availability* | *Tariff* |
|---|---|---|
| Answer Supervision - Line Side | Arizona, Colorado, Iowa, Idaho-South, Minnesota, North Dakota, Nebraska, New Mexico, Oregon, Utah, Washington | Tariff FCC No. 5, Applicable State Tariffs |
| Blocking for 10XXX1+/10XXX011+ | Arizona, Colorado, Iowa, Idaho-North, Idaho-South, Malheur, Minnesota, Montana, North Dakota, Nebraska, New Mexico, Oregon, South Dakota, Utah, Washington, Wyoming | Tariff FCC No. 5, Applicable State Tariffs |
| International Blocking | Minnesota | Tariff FCC No. 5, Applicable State Tariffs |
| Billed Number Screening | Arizona, Colorado, Idaho-South, Iowa, Malheur, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming | Tariff FCC No. 5, Applicable State Tariffs |

# BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
Commissioner - Chairman
RENZ D. JENNINGS
Commissioner
CARL J. KUNASEK
Commissioner

Arizona Corporation Commission
DOCKETED
DEC 31 1998
DOCKETED BY | od

| | |
|---|---|
| IN THE MATTER OF THE APPLICATION OF U S WEST COMMUNICATIONS, INC. FILING TO REVISE ITS NETWORK SERVICES TARIFF (Public Access Line Services) | Docket No. T-01015A-97-0024<br>**DECISION No.** 61304<br>**ORDER** |
| IN THE MATTER OF THE FILING OF TARIFFS BY NAVAJO COMMUNICATION COMPANY | Docket No. T-02115A-97-0041 |
| IN THE MATTER OF THE FILING OF TARIFFS BY CITIZENS UTILITIES COMPANY (MOHAVE COUNTY) | Docket No. T-01032A-97-0042 |
| IN THE MATTER OF THE FILING OF TARIFFS BY CITIZENS TELECOMMUNICATIONS COMPANY OF THE WHITE MOUNTAINS, INC. | Docket No. T-03213A-97-[illegible] |

Open Meeting
December 30, 1998
Phoenix, Arizona

BY THE COMMISSION:

## FINDINGS OF FACT

1. U S WEST Communications, Inc ("U S WEST"), Navajo Communications Company ("Navajo"); Citizens Utilities Company (Mojave County) ("Citizens-Mojave") and Citizens Communications of the White Mountains ("Citizens-White Mountains"), collectively "Citizens Utilities") are Arizona public service corporations providing local exchange service within the State of Arizona.

2. On January 17, 1997, U S WEST filed a tariff revision to its Network Service Tariff (the "U S WEST proceeding"). On January 27, 1997, Navajo, Citizens-Mojave and Citizens-White Mountains each filed revisions to their Telephone Services Tariff (the "Citizens Utilities proceedings").

3. On February 11, 1997, the Arizona Payphone Association ("APA") was granted intervention in the U S WEST proceeding and Citizens Utilities proceedings.

4. The rates and charges currently in effect for public access line service provided by U S WEST and Citizens Utilities were approved subject to true-up in Decisions Nos. 60135 (April 15, 1997) (U S WEST); 60130 (April 15, 1997) (Citizens-Mojave); 60132 (Navajo); and 60129 (Citizens-White Mountain), respectively.

5. Staff and APA have reached agreement on a number of issues in the U S WEST proceeding and Citizens Utilities proceedings.

6. The particulars of the agreement are memorialized in a written Settlement Agreement ("Agreement") dated November 4, 1998. Staff filed the Agreement with the Commission and provided all parties in the above dockets with copies of the Agreement.

7. Procedural orders governing the conduct of these proceedings were issued. The procedural orders established procedures for discovery; established dates for U S WEST, Citizens Utilities, Staff, APA and intervenors to file testimony or comments; and set a hearing date at which all parties would be able to present witnesses and evidence and cross-examine the witnesses of other parties.

8. All parties and intervenors had the opportunity to file testimony or comments regarding the Agreement, and to present witnesses and exhibits and to cross-examine witnesses presented by other parties.

9. Commencing on December 21, 1998, a hearing was held on these matters at the Commission's offices in Phoenix, Arizona.

10. Staff and APA believe that the Agreement they have reached is consistent with the public interest. A copy of the Agreement is attached hereto as Exhibit "A".

. . . .

## CONCLUSIONS OF LAW

1. U S WEST Communications, Inc ("U S WEST"), Navajo Communications Company ("Navajo"); Citizens Utilities Company (Mojave County) ("Citizens-Mojave") and Citizens Communications of the White Mountains ("Citizens-White Mountains"), collectively "Citizens Utilities") are public service corporations within the meaning of Article 15 of the Arizona Constitution and Title 40 of the Arizona Revised Statutes.

2. The Commission has jurisdiction over U S WEST and Citizens, over the subject matter of these proceedings, and over the Agreement submitted by the Staff and APA.

3. Notice of this matter was provided in accordance with law.

4. The Agreement resolves all matters contained therein in a manner which is just and reasonable, and which promotes the public interest.

5. The Commission's acceptance and approval of the terms of the Agreement between Staff and APA are in the public interest.

6. The rates and charges contained in the Agreement are just and reasonable and in compliance with all applicable state and federal law.

7. U S WEST and Citizens Utilities should be directed to file tariffs consistent with the Agreement and the findings contained herein.

8. U S WEST and Citizens should be directed to keep an accounting of the revenue impact of this Order which may be considered, as appropriate, in their next respective rate cases filed with the Commission.

## ORDER

IT IS THEREFORE ORDERED that this Order incorporates the Agreement executed between APA and Staff, and such Order is expressly conditioned thereon.

IT IS FURTHER ORDERED that the terms and conditions of the Agreement be and the same are hereby adopted and approved.

IT IS FURTHER ORDERED that the approvals agreed to in the Agreement are hereby approved.

. . . .

IT IS FURTHER ORDERED that U S WEST and Citizens Utilities are authorized and directed to file schedules of rates and charges consistent with the Findings and Conclusions of this Order.

IT IS FURTHER ORDERED that U S WEST and Citizens shall keep an accounting of the revenue impact of this Order which may be considered, as appropriate, in their next respective rate cases filed with the Commission.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

**BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

| | | |
|---|---|---|
| Commissioner-Chairman | Commissioner | Commissioner |

IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 31st day of December 1998.

JACK ROSE
Executive Secretary

DISSENT ______________

# SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the Arizona Corporation Commission Staff ("Commission Staff") and the Arizona Payphone Association ("APA") (collectively "the Parties").

**Recitals.**

1. On January 17, 1997, US WEST Communications, Inc. ("US West") filed with the Arizona Corporation Commission ("Commission") a tariff revision to its Network Services Tariff. That matter is captioned *In the Matter of the Application of US West Communications, Inc. Filing To Revise Its Network Services Tariff (Public Access Line Services)*, Docket No. T-01051B-97-0024 ("the US West Matter").

2. On January 27, 1997, Citizens Utilities Company, Mohave County, Citizens Telecommunications Company of the White Mountains, Inc. and Navajo Communications Company (collectively "Citizens") filed with the Arizona Corporation Commission ("Commission") tariff revisions to their Telephone Service Tariff. Those matters are captioned, respectively, *In the Matter of the Filing of Tariffs by Navajo Communications Company*, Docket No. T-2115A-97-041, *In the matter of the Filing of Tariffs by Citizens Utilities Company (Mohave County)*, Docket No. T-1032B-97-042, and *In the matter of the Filing of Tariffs by Citizens Telecommunications Company of the White Mountains, Inc.*, Docket No. T-3213A-97-043 (collectively "the Citizens Matter").

3. The US West Matter and the Citizens Matter concern, among other things, those companies' tariff rates for Public Access Lines ("PAL") service and whether US West's and Citizens' PAL rates comply with the Telecommunications Act of 1996 and Federal Communications Commission ("FCC") requirements that PAL rates be "cost-based" and meet the "new services test."

4. APA represents over 5,000 independently owned pay telephones in Arizona. Within US West's and Citizens' local exchange areas, APA's members purchase PAL service from US West and Citizens. Consequently, on February 11, 1997, the Commission granted APA's motions to intervene in the US West matter and the Citizens matter.

5. On April 15, 1997, Commission Decision Nos. 60129, 60130 and 60132 were issued, which approved Citizens PAL tariffs, subject to further examination and true-up. In Decision No. 60135, dated April 15, 1997, the Commission also approved US West's PAL tariffs, subject to further examination and true-up.

6. On July 15, 1997, APA filed a Motion to Consolidate and Motion for Procedural Order in the Citizens Matter, which was subsequently amended on July 23, 1997. The Motion requested the Commission to consolidate Citizens' three tariff filing dockets into one and to require Citizens to establish that all its PAL rates comply with the Telecommunications Act of

1996 and relevant FCC Orders, and further that APA be allowed to submit data demonstrating that Citizens' PAL rates do not comply with Federal requirements, and to propose alternate PAL rates.

7. On July 16, 1997, APA filed a Motion for Procedural Order in the US West Matter requesting that the Commission require US West to establish that its PAL rates comply with the Telecommunications Act of 1996 and all FCC requirements, and further that APA be allowed to submit data demonstrating that US West's PAL rates do not comply with Federal requirements, and to propose alternate PAL rates.

8. On October 10, 1997, the Commission issued Procedural Orders in the US West Matter and the Citizens Matter consolidating the Citizens dockets into one and ordering US West and Citizens to provide certain information to APA, ordering Commission Staff to respond to data requests promulgated by APA, and giving APA 30 days to file any information regarding whether US West's and Citizens' proposed new PAL rates complied with FCC requirements. The Commission further ordered that a review of PAL rates which were not new should be undertaken in a future proceeding.

9. On October 15, 1997, APA filed Motions for Reconsideration of the Commission's October 10, 1997 Procedural Orders requesting, among other things, that an accounting order be issued requiring US West and Citizens to true-up their PAL rates from April 15, 1997 until such time as new PAL rates that are in compliance with the FCC's new services test became effective.

10. On December 2, 1997, the Commission issued Procedural Orders in the US West Matter and the Citizens Matter ordering that Staff and APA file their completed reviews of US West's and Citizens' SPAL rates by December 15, 1997. The Order also required Staff to file a report no later than January 15, 1998, setting forth its analysis, conclusions and recommendations as to whether US West's payphone tariffs comply with the Telecommunications Act of 1996 and the FCC rules. Staff was ordered to file a similar report on Citizens' payphone Tariffs.

11. On December 15, 1997, APA filed its Comments in opposition to the PAL rates filed by US West. Included in its Comments was an Affidavit of Dr. Michael J. Ileo, Ph.D., an economist and expert in the analysis of regulated utility rates in support of APA's position on US West's PAL rates.

12. On December 15, 1997 and January 15, 1998, Staff filed its Reports on US West's and Citizens' PAL rates.

13. On March 2, 1998, APA filed its Comments in opposition to the PAL rates filed by Citizens. Included in its Comments was an Affidavit of Michael J. Ileo, in support of APA's position on Citizens' PAL rates.

14. On August 25, 1998, APA filed supplemental findings of Michael J. Ileo in the US West Matter in support of APA's position.

15. On August 31, 1998 APA filed supplemental findings of Michael J. Ileo in the Citizens Matter in support of APA's position.

16. On October 26, 1998, the Commission issued a Procedural Order in the US West Matter concluding (1) that the FCC's new services test applies to all US West's PAL rates, (2) that a hearing is necessary to determine whether US West's PAL rates comply with FCC requirements, (3) that the Commission cannot adjust US West's rates outside of a rate case, except that it can permit interim rates under emergency situations, and (4) that, if it is determined that US West's PAL rates do not comply with the new services test, APA members will be entitled to a refund subject to a legal rate of interest. The Commission further set a time for a hearing to determine whether US West's PAL rates comply with FCC requirements.

17. The FCC's deadline for implementation of rates set in accordance with FCC requirements was April 15, 1997. In a subsequent order, the FCC required rates established after April 15, 1997 to be trued-up retroactive to that date. In view of these pronouncements by the FCC, and in light of the agreements herein regarding PAL rates, an emergency situation exists which justifies adjustment to PAL rates outside a general rate case.

18. Commission Staff and APA have engaged in discussions intended to amicably resolve issues relating to PAL rates for US West and Citizens. For purposes of this Agreement, Commission Staff and APA agree to the use of the applicable common business line rate as the PAL rate in the future.

19. It is in the public interest that PAL rates be modified to reflect this Agreement upon its approval and that US West and Citizens refund the excess amounts paid to PAL users, as calculated in paragraph D with interest from the date of approval.

THEREFORE, in order to settle and resolve certain disputed issues concerning US West's and Citizens' PAL Rates, Commission Staff and APA agree as follows:

Agreement.

A. US West's and Citizens' rates for flat full resale PAL services shall be fixed at the same rate as their respective business line, in the case of US West, $17.68 and in the case of Citizens Utilities Rural Company, Inc., $21.67; in the case of Citizens Telecommunications Company of the White Mountains, Inc. and Citizens Telecommunications of Arizona, Base rate is $35.10, Zone 1 rate is $38.10, inclusive of the End User Common Line Charge (the "new PAL rate"). To the extent additional charges would be added to provide common business line service, such charges shall be added for the provision of a PAL line at their current rate.

B. The new PAL rates shall become effective upon approval of this Settlement Agreement by the Commission. US West and Citizens should be required to file tariffs that reflect the new PAL rates within 10 days of the approval of this Agreement.

C. The new PAL rates shall be retroactive to April 15, 1997. US West and Citizens shall be required to true-up their PAL rates retroactive from the date of approval to April 15, 1997.

D. US West and Citizens shall, within 30 days of the date this Settlement Agreement is approved by the Commission, provide a refund to all users of PALs in Arizona from April 15, 1997 until the new PAL rates are authorized for the difference between the new PAL rates and the rates in effect from April 15, 1997 until the time the new PAL rates are authorized, plus interest accrued at the rate of ten percent (10%) per annum.

E. All PAL rates referenced under this agreement are basic PAL rates. Otherwise approved charges for SmartPAL tariffs shall remain in effect.

F. This Agreement represents an attempt to compromise and settle disputed claims in a manner consistent with the public interest. Nothing contained in this Agreement is an admission by any of the parties that any of the positions taken, or that might be taken by each in formal proceedings, is unreasonable. In addition, acceptance of this Agreement by the parties is without prejudice to any position taken by any party in these proceedings.

G. Each provision of this Agreement is in consideration and support of all the other provisions, and expressly conditioned upon acceptance by the Commission without change. In the event that the Commission fails to adopt this Agreement according to its terms by December 31, 1998, this Agreement shall be deemed withdrawn and the parties shall be free to pursue their respective positions in these proceedings without prejudice. The Parties hereby request that the Commission set a hearing on this Settlement Agreement in November 1998 and place this Settlement Agreement on its open meeting agenda for December 1998.

H. The terms and provisions of this Agreement apply solely to and are binding only in the context of the provisions and results of this Agreement and none of the positions taken herein by the parties may be referred to, cited or relied upon by any other party in any fashion as precedent or otherwise in any other proceeding before this Commission or any other regulatory agency or before any court of law for any purpose except in furtherance of the purposes and results of this Agreement.

I. Nothing in this Settlement Agreement shall affect or violate the March 4, 1996 Settlement Agreement between APA and US West.

ARIZONA CORPORATION COMMISSION STAFF

By Ray T. Williamson
Ray Williamson
Acting Director, Utilities Division

November 4, 1998
Date

ARIZONA PAYPHONE ASSOCIATION

By Gary L. Joseph
Gary Joseph
President

November 4, 1998
Date